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June 26, 2012

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Via Hand Delivery

Jeff S. Jordan, Supervisory Attorney
 Complaints Examination and Legal Administration
 Federal Election Commission
 999 E Street, NW
 Washington, DC 20463

Re: **MUR 6586**
World Wrestling Entertainment, Inc.

Dear Mr. Jordan:

On behalf of World Wrestling Entertainment, Inc. ("WWE"), we submit this Response to the Complaint submitted to the Federal Election Commission ("Commission" or "FEC") on May 31, 2012 on behalf of the *Journal Inquirer* ("JI"). The Complaint was transmitted to WWE by your letter of June 7, 2012 and received by WWE on June 11, 2012.

For the reasons stated herein, this matter should be summarily dismissed because JI fails to provide a factual basis showing the Commission a reason to believe that WWE committed any violation of the Federal Election Campaign Act ("FECA"). Instead, the Complaint is a plain attempt to harass WWE for responding to JI's libelous statements about WWE by its editor, Mr. Chris Powell ("Powell"). The Complaint is a deliberate abuse of this Commission's processes, purpose, and jurisdiction by a media entity being challenged by WWE as to the factual accuracy of statements made regarding WWE's business.

I. THE COMMISSION'S STANDARD FOR SUMMARY DISMISSAL

By its statutory grant of authority, as well as its own rules of procedure, the Commission may continue investigations into a complaint alleging a violation of the FECA only when there is a "reason to believe" a violation has been committed. 2 U.S.C. § 437g(a)(2). The Commission may find a "reason to believe" that a violation occurred only where a complaint states "sufficient specific facts, which, if proven true, would constitute a violation of the FECA." Statement of Reasons, MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee) at 1 (Dec. 21, 2000). The Commission does not impose a heightened evidentiary threshold on a respondent confronted with general allegations of violations in order to obtain summary dismissal. Statement of Reasons, MUR 6277 (In re

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Robert Kirkland) (Jan. 28, 2011). Nevertheless, even if sufficient facts were alleged in the Complaint, it should be summarily dismissed if the response refutes those allegations with "sufficiently compelling evidence." See Statement of Reasons, MUR 4960 at 2.

II. RELEVANT FACTUAL BACKGROUND

WWE is a publicly traded company which has long been headquartered in Stamford, Connecticut. WWE obviously is not a political candidate, but is a company with a strong interest in not having its reputation damaged by false statements of fact about its business, regardless of the political happenings in the State of Connecticut.

The filer of this abuse is the *Journal Inquirer*, a newspaper in Manchester, Connecticut. The managing editor of JI, Chris Powell, also writes an occasional column regarding Connecticut politics. Chris Powell and other political pundits have often written about Linda McMahon, former WWE CEO and candidate for U.S. Senate from Connecticut. Throughout all of those political commentaries, WWE remained silent and continues to remain silent on issues related to the U.S. Senate race. However, after Mr. Powell and JI's most recent column, which crossed the line from political commentary to a direct attack on WWE's corporate reputation and business interests, the WWE was obligated to respond to protect its reputation in Connecticut and across the country as a responsible corporate citizen.

The rights of Powell and JI to endorse whomever they desire are not at issue, nor are their rights to comment on political races. Instead, as between WWE and JI/Powell, the issue is that they have made false statements of fact about the nature of WWE's business which WWE considers to be libelous. WWE has an independent right to protect its business and reputation under the laws of Connecticut and has done so, much to JI's consternation. On January 28, 2012, for example, under the byline "Vanity vs. Politics," JI, through Powell, stated as follows on the subject:

"Maybe in time Connecticut will consider ~~the pornography~~ and mock violence of the ~~wrestling~~ business from which McMahon draws her fortune to be as legitimate as any other business."¹ (emphasis added)

¹ Chris Powell, *McMahon vs. Shays, vanity vs. politics*, *Journal Inquirer*, Jan. 28, 2012, available at http://www.journalinquirer.com/articles/2012/01/28/chris_powell/doc4f22f5c747b4e980629187.txt.

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Mr. Powell's clear innuendo that the WWE was in the "business of pornography" was objectionable, damaging to WWE's reputation, and degrading to its fans and employees. Thus, Mr. Robert Zimmerman, WWE's Senior Vice President, Corporate Communications, sent a letter on February 2, 2012 to Mr. Powell exercising WWE's First Amendment rights to express its views on the accuracy of that false innuendo. Contrary to the false implications of Ms. Elizabeth S. Ellis' sworn affidavit filed with this Commission, which suggests that WWE threatened a libel suit over JI's January 28th article, WWE did not do so. In fact, Mr. Zimmerman acknowledged that JI had printed "an opinion piece" and exhorted Mr. Powell and JI to be ethical and not distort the truth. Mr. Zimmerman then pointed out the obvious distortion of WWE's business by JI and Powell because WWE's programming would not be permitted to be on air if, in fact, it were pornographic. Mr. Zimmerman then provided JI and Powell with correct factual information about WWE programming for JI to consider "for future editorials and news stories."²

Undeterred by the facts, on May 21, 2012, under the byline of "Does Connecticut really not know McMahon yet," Mr. Powell stated as follows:

"If, having spent several times more money than had ever been spent on a campaign in Connecticut, a candidate isn't known well enough, whose fault would that be? But of course nearly everyone knew very well who McMahon was – that was the problem. Her practical qualifications for office did not extend beyond her fantastic wealth, and that wealth derived from the business of violence, pornography, and general raunch."³ (emphasis added)

In light of the false and clear innuendo that WWE was in the "business of pornography," made after WWE had previously notified Powell of the falsity of any such implication, WWE once again exercised its rights under the First Amendment as well as the libel laws of Connecticut. On May 24, 2012, WWE directed a letter to JI regarding the false statements of fact which were damaging to WWE's business interests and reputation.⁴ In relevant part, Mr. Brian Flinn, WWE's Senior Vice President, Marketing and Communications, closed his letter by demanding a retraction of the false statements of fact

² Letter from Robert Zimmerman to Chris Powell (Feb. 2, 2012) (Exhibit A).

³ Chris Powell, *Does Connecticut really not know McMahon yet?*, Journal Inquirer, May 21, 2012, available at http://www.journalinquirer.com/articles/2012/05/21/chris_powell/doc4fba49b1ed31d736446549.txt.

⁴ Letter from Brian Flinn to Chris Powell (May 24, 2012) (Exhibit B).

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made by JI, including specifically the lie that WWE was in the "business of pornography," as follows:⁵

"Our company started with 13 employees 30 years ago and has grown to nearly 700, which speaks to the quality and staying power of our product and our organization. WWE may not be your personal choice of entertainment, but that does not give you the right to make false statements of fact about our business which willfully damages our corporate reputation.

Accordingly, WWE hereby demands a retraction in the *Journal Inquirer* by June 4, 2012 in as public a manner as that in which you made these false statements. Should you fail to issue the retraction, we will seek legal and all available remedies."⁶

In doing so, WWE exercised important rights given under the libel laws of Connecticut. The Connecticut retraction statute, similar to such statutes in many states, provides a vehicle for those libeled by the media to request that false statements be corrected to mitigate the damage to reputation caused by the libel. Specifically, Connecticut statutory law provides as follows:

Sec. 52-237. Damages in action for libel – In any action for a libel, the defendant may give proof of intention; and unless the plaintiff proves either malice in fact or that the defendant, after having been requested by the plaintiff in writing to retract the libelous charge, in as public a manner as that in which it was made, failed to do so within a reasonable time, the plaintiff shall recover nothing but such actual damage as the plaintiff may have specially alleged and proved.

Conn. Gen. Stat. § 52-237.

Under the Connecticut statute governing damages for libel, making a written request for retraction is a proper and often essential step in pursuing a meritorious defamation claim. Indeed, the plaintiff's request for retraction has been a key factor in allowing a libel claim to proceed following a motion to dismiss. *See, e.g., LoSacco v. City of Middletown*, 745 F. Supp. 812, 818 (D. Conn. 1990) ("The Connecticut libel statute . . . requires plaintiffs to

⁵ WWE sent copies of its letter to other news organizations in the state where WWE is and has been headquartered for decades.

⁶ May 24 Letter, *supra* n.4.

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prove either malice in fact or a refusal by the defendant to retract the libelous charge after a request in writing. Here, plaintiff alleges both. . . ."). On the other hand, a plaintiff's failure to comply with the statute by requesting retraction can be fatal to a libel claim. *See, e.g., Mackowski v. New Haven Register*, No. CV 990430252S, 2002 WL 31374285, at *3 (Conn. Super. Ct. September 27, 2002) (granting summary judgment for defendant where plaintiffs neither sought retraction nor proved malice-in-fact). Compliance with the retraction statute is particularly important where the plaintiff seeks general damages, which include general harm to reputation. *See id.* Thus, by complying with Connecticut law requiring that retraction demands be in writing, WWE has fully preserved its rights, and its remedies, to bring a libel action against JI and Powell at any time within the applicable two-year statute of limitations.

Before this Commission, JI attempts to portray WWE's request for retraction of the false statement that WWE was in the "business of pornography" as an improper threat aimed at chilling free speech regarding the ongoing Senatorial campaign. This allegation could not be further from the truth. WWE's letter was sent in compliance with a Connecticut statute aimed at protecting potential libel defendants by ensuring that they are provided an opportunity to avoid liability for all but actual damages before being brought into court. *See, e.g., Lyons v. Nichols* No. CV 940312019S, 1999 WL 329954, at *1 (Conn. Super. Ct. May 13, 1999) (in awarding punitive damages for libel, noting that defendant had "received the opportunity to retract the statement [under retraction statute], but he failed to do so."). It is inconceivable that JI's stubborn refusal to avail itself of this statutory protection by simply retracting its false and defamatory statements about a public company somehow implicates the federal election laws.

Additionally, between May 24, 2012 (when WWE publicly demanded a retraction) and May 31st (the date JI decided to abuse the FEC process), numerous articles were printed in conventional media and on the internet regarding JI's statement that WWE was in the "business of pornography" and WWE's demand for a retraction, thereby exposing as a sham the baseless assertion made here of a supposed "chilling effect" on political commentary.⁷

⁷ *See, e.g., Daniela Altmari, WWE Is Not Backing Down*, Hartford Courant Capitol Watch Blog, May 29, 2012, <http://courantblogs.com/capitol-watch/in-the-wake-of-widespread-criticism-wwe-is-not-backing-down/>; Daelela Altmari, *WWE Stands Up to Critics*, Hartford Courant Capitol Watch Blog, May 25, 2012, <http://courantblogs.com/capitol-watch/wwe-stands-up-to-critics/>; Rick Chandler, *Morning Mail: Columnist calls WWE 'Barely above pornography', WWE responds*, May 24, 2012, <http://offthebench.nbcsports.com/2012/05/24/morning-mail-columnist-calls-wwe-barely-above-pornography-wwe-responds/>; Rick Green, *What Is Porn? You Decide*, Hartford Courant Capitol Watch Blog, May 28, 2012, <http://courantblogs.com/rick-green/what-is-porn-you-decide/>; Keith Harris, *WWE threatens legal action against Connecticut journalist*

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The principal thrust of some members of the Connecticut media was to recast the factually false statement of JI that WWE was in the "business of pornography" as nothing more than the expression of "opinion" protected by the First Amendment.⁸

For JI's part, Mr. Powell suffered no "chilling effect." Between the date of the retraction letter and May 31st, Mr. Powell himself tried to recast his false statement of fact about the nature of WWE's business into protected opinion.⁹ More recently, Mr. Powell

for violent porn remark, Cageside Seats, May 27, 2012, <http://www.cagesideseats.com/2012/5/27/3047260/wwe-threatens-legal-action-against-connecticut-journalist-for-violent>; Colin McEnroe, *Linda McMahon's big fat libel porn necrophilia monkey-head problem*, Hartford Courant To Wit Blog, May 31, 2012, <http://courantblogs.com/colin-mcenroe/linda-mcmahons-big-fat-libel-porn-necrophilia-monkey-head-problem-kind-of-a-nakedly-sno-headline/>; Colin McEnroe, *Wrestling With Linda McMahon – Past and Present*, Hartford Courant, May 31, 2012, available at <http://www.courant.com/news/opinion/hc-op-mcenroe-wrestling-with-linda-mcmahon-past-pr-20120531,0,5078066.column>; Hugh McQuaid, *WWE Calls Attacks Libelous*, CT News Junkie, May 25, 2012, http://www.ctnewsjunkie.com/ctnj.php/archives/entry/wwe_calls_attacks_libelous/; Editorial, *No time for bullies*, The Darien Times, May 31, 2012; Editorial, *WWE threatens columnist with libel suit over 'pornography'*, The Darien Times, May 29, 2012, available at <http://www.darientimes.com/3149/wwe-threatens-columnist-with-libel-suit-over-pornography/>; *WWE: We will not be 'bullied' by media*, The Darien Times, May 30, 2012, available at <http://www.darientimes.com/3174/wwe-we-will-not-be-bullied-by-media/>.

⁸ See, e.g., Matthew Kauffman, *Claim Check: Pornography, TV Ratings, and the WWE's Curious Campaign*, Hartford Courant The Scoop Blog, May 31, 2012, <http://courantblogs.com/investigative-reporting/claim-check-pornography-tv-ratings-and-the-wwes-curious-campaign/>; Editorial, *Our View: WWE is fair game for media*, Norwich Bulletin, May 29, 2012, available at <http://www.norwichbulletin.com/editorials/x358807176/Our-View-WWE-is-fair-game-for-media>.

⁹ Chris Powell, *Deposing McMahon: If not porn, what is it?*, Journal Inquirer, May 31, 2012, available at http://www.journalinquirer.com/articles/2012/06/04/chris_powell/doc4fc9a43241469981264301.txt.

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continued to write his commentary on the Senate race, and continued his attacks on WWE in the process.¹⁰

III. THE COMPLAINT ABUSES THE COMMISSION PROCESS

As this Commission is no doubt aware, the mere act of filing an FEC complaint against a candidate is now a regrettable part of the political tactics used in federal elections. Often, the act of filing such a complaint is then duly filed to and reported on by the media as if a significant legal act has occurred. This particular abusive filing is unique in that it was filed by a newspaper seeking to create a story which it was then the first to report, falsely suggesting that WWE's actions in protecting its reputation somehow ran afoul of federal election laws otherwise not identified anywhere in the Complaint.¹¹ In fact, based on research dating back to FEC complaints from 1999 to the present, there has not been another single instance of a media company filing a complaint against a private entity, let alone a complaint that irresponsibly seeks to involve this Commission in state libel law matters.

Given its pretextual purpose, it is, therefore, not surprising that the actual Complaint filed by JI crosses well over the line of fauce. It is a short four paragraphs in length and is signed by the publisher of JI—Elizabeth S. Ellis. In the Complaint, Ms. Ellis first attempts to minimize the libel of WWE by characterizing two of Mr. Powell's writings as "political commentaries" despite the fact WWE is not involved in the political process. She neglects to advise the Commission that WWE's retraction letter was sent because her paper falsely implied that WWE was in "the business of pornography" in one of those writings. She then states:

"WWE was not mentioned in either commentary, yet the paper received a letter dated May 24, 2012 from WWE threatening a libel suit, a copy of which is also attached hereto. I do not believe that the Journal Inquirer libeled WWE and the letter is meant to discourage our right to comment on Mrs. McMahan."

¹⁰ Chris Powell, *What were those jobs? And the one big reform*, Journal Inquirer, Jun. 18, 2012, available at http://www.journalinquirer.com/articles/2012/06/22/chris_powell/doc4fd055d48b3c501620979.txt.

¹¹ See Don Michak, *WWE muscling out criticism?*, Journal Inquirer, Jun. 4, 2012, available at http://www.journalinquirer.com/articles/2012/06/04/page_one/doc4fccd6e4a97eb411595649.txt.

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The Complaint states no factual allegations whatsoever indicating that WWE committed any violation of FECA by demanding a retraction pursuant to state law, and does nothing more than express the publisher's self-serving and irrelevant legal opinion that JI did not libel WWE. That canard was followed by her equally irrelevant and false personal opinion that WWE's letter was "meant to discourage our right to comment on Mrs. McMahon." Deceptively, she suggests that WWE threatened a libel case over both the January 28, 2012 writing and the May 21, 2012 writing—an assertion belied by the actual response of WWE to the January 28th writing noted previously. To facilitate that deception on the Commission, JI did not attach WWE's actual response to the January 28, 2012 article. WWE's response to that article plainly contains no libel threat and expressly acknowledged the right of JI to render opinion pieces.

Aside from the publisher's view that JI did not libel WWE, the only other submission of JI was the letter of its counsel, Richard Weinstein. Mr. Weinstein, evidently ignorant of the existence and purpose behind Connecticut's retraction statute, rendered the equally irrelevant opinion that "the only purpose of Flinn's letter is intended to use WWE to defend the candidate and to seek to have a chilling effect on journalists in Connecticut who might otherwise criticize Linda McMahon during her campaign."¹² (emphasis added)

Since the Complaint was filed, public statements by other media members who know Mr. Powell establish that he and the JI are knowingly abusing this Commission's jurisdiction. Specifically, on June 6, 2012, Mark Pazniokas of *The Connecticut Mirror* stated on National Public Radio that Powell is "pulling your chain, he does not believe that the FEC complaint is serious – he's making a point."¹³

¹² Obviously, Mr. Weinstein does not represent any other journalists in Connecticut in this abuse of the Commission process, and the only journalist involved in this abuse is Mr. Powell and the JI. Contrary to Weinstein's frivolous assertion, there is no evidence that WWE has ever sent any letter demanding a retraction to any media outlet in Connecticut on account of political commentary or criticism of Linda McMahon's candidacy during her past or present campaign for public office. WWE directed its retraction letter to the JI to protect its independent interest in its business reputation and because Powell and the JI falsely implied that WWE was in the "business of pornography."

¹³ *Where We Live, Reporter Roundtable*, at 3:54 (Connecticut Public Radio, Jun. 6, 2012) (Exhibit C).

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IV. LEGAL ARGUMENT

When a complaint cites activity which does not constitute a violation of the FECA, the Commission may find no reason to believe. *See* Statement of Reasons, MUR 4960; Statement of Reasons, MUR 4869 (American Postal Workers Union) (Mar. 21, 2000). Here, Complainant alleges only that they did not, in their view, libel WWE and that WWE's demand for retraction has produced a chilling effect on political reporting. No reasonable entity, particularly a newspaper represented by a remotely competent counsel, would ever believe the FEC has jurisdiction to adjudicate state law libel matters. No reasonable newspaper would think this Commission is vested with jurisdiction to grant relief due to pretextual claims of a "chilling effect" on political reporting caused by a non-candidate exercising its rights to seek redress under state law when it believes it has been libeled. No reasonable entity or attorney would believe that there is some form of immunity from libel laws obtained by calling something an opinion when it incorporates provably false statements of fact. Long ago, the United States Supreme Court ruled that there is no First Amendment protection for false statements of fact, whether couched as an opinion or not. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990). It is equally well-established that "a writing which tends to disparage a person in the way of his office profession or trade is libelous per se." *See Wojnarowicz v. American Family Association*, 745 F. Supp. 130, 147 (S.D.N.Y. 1990) (citing *Davis v. Ross*, 754 F.2d 80, 82 (2d Cir. 1985)). Neither Powell nor JJ has any dispensation from the libel laws to imply or falsely state that WWE is in the "business of pornography."

It is, therefore, not surprising that the Complaint wholly fails to identify one fact indicating that WWE committed a FECA violation by acting to protect its reputation in the face of JJ's libel. Indeed, the Complaint fails to identify a suspected violation of FECA in even general terms. Thus, WWE can only note additional reasons why the filing is abusive gauged against actual FECA law.

A. WWE has not made any contribution to or expenditure for the McMahon for Senate campaign.

FECA and Commission regulations define the terms "contribution" and "expenditure" to include any gift of money or "anything of value" for the purpose of influencing a Federal election. 2 U.S.C. § 431(8)(A) and (9)(A); 11 C.F.R. § 100.52(a) and 100.111(a); see also 2 U.S.C. § 441b(b)(2); 11 C.F.R. § 114.1(a)(1) (incorporating these definitions into the terms "contribution" and "expenditure" with respect to corporate activity). FECA defines an in-kind contribution to include an expenditure "made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents." 2 U.S.C. § 441a(a)(7)(B)(i). FECA and Commission regulations prohibit any corporation from making any contribution

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or expenditure, including providing "anything of value," in connection with a Federal election. 2 U.S.C. § 441b(a); 11 C.F.R. §§ 114.1(a), 114.2(b)(1) and (b)(2).

Here, WWE acted wholly independently of any Federal election or political activity by a Federal political committee or candidate for public office. WWE's actions were its own efforts to protect its corporate reputation and business interests from the libelous attacks of a bloviating columnist and the newspaper that employs him. In fact, WWE did not demand a retraction regarding any of the attacks against the Company's former CEO, Mrs. McMahon. WWE acted to protect its own rights only after Mr. Powell engaged in defamatory speech about the nature of WWE's business after being advised of the falsity of his innuendo that WWE was in the "business of pornography." Only once that line had been crossed did WWE decide to engage in protected, responsive speech (and exercise its rights under Connecticut state law), wholly in an effort to protect its good corporate reputation and standing in the Connecticut business community. Neither Linda McMahon nor any of her agents requested or suggested that WWE respond to Chris Powell and JI in requesting a retraction, and the Complaint wholly lacks even an allegation to that effect.

Since WWE did not respond to JI in an effort to influence any Federal election but instead exercised its unqualified rights under the libel laws of Connecticut to protect its reputation, the FEC should find that WWE did not make any contribution or expenditure.

B. WWE did not make an impermissible contribution resulting from a coordinated communication.

WWE has responded to JI and Mr. Powell wholly independent of any federal candidate or campaign for public office in an effort to protect its own business interests. As demonstrated below, its communications to the JI do not meet the objective thresholds for a "coordinated communication."

Any person who is prohibited from making contributions or expenditures, such as a corporation, is also prohibited from paying for a coordinated communication. 11 C.F.R. § 109.22. A coordinated communication is treated as an in-kind contribution to the candidate, authorized committee, or political party committee with whom it is coordinated and must be reported as an expenditure made by that candidate, authorized committee, or political party committee 2 U.S.C. §§ 441a(a)(7)(B)(i); 11 C.F.R. § 109.21(b)(1). A communication is coordinated with a candidate, an authorized committee, a political party committee, or an agent of any of the foregoing when the communication meets all three of the following "prongs" of a coordinated communication

- (1) is paid for, in whole or part, by a person other than that candidate, authorized committee, political party committee, or agent;

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(2) satisfies at least one of the content standards described in 11 C.F.R. § 109.21(c);
and

(3) satisfies at least one of the conduct standards described in 11 C.F.R. § 109.21(d).

A simple examination of WWE's communications under the tests of the "content prong" shows that WWE could not have made an impermissible coordinated communication under an objective analysis of the facts. The content prong may only be satisfied if the communication: (1) is an electioneering communication under 11 C.F.R. 100.29; (2) is a public communication that disseminates, distributes, or republishes campaign materials prepared by a candidate at any time; (3) is a public communication that expressly advocates the election or defeat of a clearly identified candidate at any time; (4) is a public communication that refers to a clearly identified federal candidate, is made within 120 days of an election, and is directed to voters in the jurisdiction of the clearly identified candidate; or (5) is a public communication that is the functional equivalent of express advocacy. Therefore, to satisfy the requirements of any of these tests, at a minimum the communication must either be an "electioneering communication" (as in test 1) or a "public communication" (as in tests 2-5). WWE's letter to JI falls outside of this basic objective test, as it was not transmitted by means of broadcast television or radio and therefore cannot be an "electioneering communication," nor was it communicated to the general public as is required for a "public communication." See 2 U.S.C. § 431(22); 11 C.F.R. §§ 100.26, 100.29. Instead, WWE's letter was individually sent to JI, and copied to a select, limited number of media outlets that may have also been covering JI's libelous statements about WWE's business. Moreover, WWE's press release in response was similarly transmitted to media outlets and posted on its own website. A "public communication" specifically exempts communications over the Internet placed on a company's own website. See 11 C.F.R. § 100.26. Here, WWE's letter failed to achieve the basic distribution channels and audience requirements found in the definitions of a "public communication" and an "electioneering communication," therefore plainly failing the "content prong" of the test for coordinated communications.¹⁴

WWE's letter to the JI also falls so far short of other requirements that it is clearly an abuse of this Commission's process. WWE's letter certainly did not disseminate, distribute or republish any federal campaign materials of any candidate. In fact, in a news article shortly after WWE sent its retraction demand to JI, Linda McMahon plainly stated that she

¹⁴ WWE's communication at issue in the Complaint so obviously fails to meet the "content prong" that it is not necessary to address the other two prongs required for a coordinated communication in this response.

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had no advance knowledge of WWE's plans, and that the company acted independently in making its request.¹⁵ WWE's letters did not expressly advocate for any federal candidate. In fact, WWE's letters to JI did not even mention a federal candidate or reference any political campaign. The focus was, and remains, on protecting WWE's corporate reputation in the face of a malicious libel that WWE was in the "business of pornography."

Therefore, since the "content prong" of any WWE communications mentioned in JI's thinly-alleged complaint is plainly absent, the FEC should not find that the WWE made a coordinated communication resulting in an impermissible contribution to any federal campaign.

In closing, WWE respectfully submits that this Commission must recognize the great potential to abuse its processes, and the reality that the filing of complaints at the Commission has become a common tactic of abuse in the political arena. The JI's unprecedented abuse, and sham filing seeking to create the false impression that WWE violated FECA by acting to protect its reputation, should not be tolerated. To protect the integrity and purpose of this Commission, it is respectfully submitted that the *Journal Inquirer's* Complaint be summarily and expeditiously dismissed. It is an actionable abuse of process, deficient on its face, and should be treated as such by the Commission.

Very truly yours,



Jeff S. McDevitt

JSM/emw

Enclosures

¹⁵ Mark Pazniokas, *McMahon says she was unaware of WWE's libel threat*, Connecticut Mirror, May 30, 2012, <http://ctmirror.org/story/16486/mcmahon-says-she-was-unaware-wwes-libel-threat>.

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EXHIBIT A



1241 East Main Street
Stamford, CT 06902
T: 203 352 8800

February 2, 2012

Mr. Chris Powell
Managing Editor
Journal Inquirer
306 Progress Drive
Manchester, CT 06045

Dear Mr. Powell:

We are writing regarding your column that appeared in the *Journal Inquirer* and *The Register Citizen* on January 28, 2012, where you state, "maybe in time Connecticut will consider the pornography and mock violence of the wrestling business...."

Although this was an opinion piece, your position as managing editor of the *Journal Inquirer* would ethically require you to report the facts accurately and not distort the truth. For future editorials and news stories that may pertain to WWE, we wanted to reiterate the facts to you so you clearly understand our programming content and the type of entertainment we provide to our more than 300,000 fans in the State of Connecticut.

All WWE television programming features only TV-PG content as rated not by us, but by the network TV distributors and their standards and practices departments. WWE weekly programming has always appeared on basic cable or broadcast television. As any casual television viewer knows, your description of our programming, based on the Federal Communications Commission rules alone, would not be permitted on free television or basic cable. To exemplify WWE's TV-PG brand, children's favorite "The Muppets" recently made special guest star appearances on "Monday Night Raw," which airs on USA Network, and on our annual holiday special, "Tribute to the Troops," which aired on NBC.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Zimmerman".

Robert Zimmerman
Senior Vice President
Corporate Communications

Enclosure: WWE letter to Chris Shays, January 23, 2012

cc: Daniela Altieri, Hartford Courant
Tom Duddik, CT Capitol Report
Rick Green, Hartford Courant
Susan Halgh, Associated Press
(cont'd)

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Dennis House, WFSB-TV
Brian Lockhart, Hearst Connecticut Media Group
Kevin Rennie, Hartford Courant
Christine Stuart, CT News Junkie
Neil Vigdor, Hearst Connecticut Media Group

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EXHIBIT B



May 24, 2012

1241 East Main Street
Stamford, CT 06902
T: 203 358 8800

Mr. Chris Powell
Managing Editor
Journal Inquirer
306 Progress Drive
Manchester, CT 06045

Dear Mr. Powell:

It is with great dismay that we find it necessary to once again point out that you have made false statements of fact in the *Journal Inquirer* regarding the business of WWE, this time in your column on Monday, May 21, 2012. That article clearly was intended to state that WWE is a "business of violence, pornography, and general raunch." This is now at least the second time you have made false statements that damage our corporate reputation, and the second time you have stated that WWE is involved in pornography. As we pointed out in our letter of February 2, 2012 following your initial libel, your position as managing editor would ethically require you to report the facts and not distort the truth. That you would repeat the false statement that WWE is in the pornography business, after being told of the falsity of that statement, is especially strong evidence of malice.

With regard to your statement on May 21 that WWE is a "business of violence," WWE programming, like Hollywood movies and Broadway shows, is an exciting blend of action, characters and fictional storylines of good versus evil entertaining millions every week, including approximately 300,000 fans here in Connecticut. Our performers are professionals who have spent many years training to perfect the athletic and choreographed maneuvers on our shows. Your assertion that our content is violent is in direct conflict with the standards and practices departments of our current TV network distributors who have rated our programming TV-PG. We would also note that your prior writings prove that you know WWE is not in the business of actual violence, as your own words in your prior January 28, 2012 article previously described our business as involving "mock violence."

With regard to your false statement that WWE is in the "business of pornography," which you have now stated twice, that statement is categorically false and especially malicious. Simply put, WWE has never been in the pornography business. As we previously advised you on February 2, 2012 when you first libeled WWE by such statements, our broadcast programming is TV-PG and has always appeared on basic cable or broadcast television. As any casual television viewer knows, based on the Federal Communications Commission's rules alone, WWE's programs would not be permitted on broadcast television or basic cable if in fact they were pornography. WWE is family entertainment. In fact, 40% of the millions of fans who attend our live events bring their children. Apart from being completely false, it is insulting to these parents to think that they would take their children to view what you falsely assert is pornography.

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Our company started with 13 employees 30 years ago and has grown to nearly 700, which speaks to the quality and staying power of our product and our organization. WWE may not be your personal choice of entertainment, but that does not give you the right to make false statements of fact about our business which willfully damages our corporate reputation.

Accordingly, WWE hereby demands a retraction in the *Journal Inquirer* by June 4, 2012 in as public a manner as that in which you made these false statements. Should you fail to issue the retraction, we will seek legal and all available remedies.

Sincerely,

A handwritten signature in black ink, appearing to read 'BF' or 'B. Flinn', with a horizontal line extending to the right.

Brian Flinn
Senior Vice President, Marketing and Communications

cc: Elizabeth Ellis, *Journal Inquirer*
Daniela Altieri, *Hartford Courant*
Tom Dudchik, *CT Capitol Report*
Rick Green, *Hartford Courant*
Susari Haigh, *Associated Press*
Dennis House, *WFSB-TV*
Brian Lockhart, *Hearst Connecticut Media Group*
Kevin Rennie, *Hartford Courant*
Christine Stuart, *CT News Junkie*
Neil Vigdor, *Hearst Connecticut Media Group*

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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20468

2012 JUN 12 PM 2:17

OFFICE OF
COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL

Please use one form for each Respondent/Entity/Treasurer
FAX (202) 219-3923

MUR # 6586

NAME OF COUNSEL: JERRY S. McDEVITT

FIRM: K&L GATES, LLP

ADDRESS: 210 SIXTH AVENUE

PITTSBURGH, PA 15222

TELEPHONE- OFFICE (412) 355-8608

FAX (412) 355-6501 Web Address www.klgates.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date

Respondent/Agent Signature

James W. Langham
SVP and Assistant General Counsel
Title (Treasurer/Candidate/Owner)

RESPONDENT: WORLD WRESTLING ENTERTAINMENT, INC.

(Committee Name, Company Name, or Individual Named in Notification Letter)

MAILING ADDRESS: 1241 East Main Street
(Please Print)

Stamford, CT 06902

TELEPHONE- HOME

BUSINESS (203) 359-5169

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

Rev. 2010

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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

2012 JUN 12 PM 2:17

OFFICE OF FEDERAL
COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Entity/Treasurer
FAX (202) 219-3923

MUR # 6586

NAME OF COUNSEL: STEPHEN P. ROBERTS

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ADDRESS: 1601 K STREET, N.W.

WASHINGTON, DC 20006

TELEPHONE- OFFICE (202) 778-9357

FAX (202) 778-9100

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date 6/12/12

Respondent/Agent Signature

James W. Langham
SVP and Assistant General Counsel
Title (Treasurer/Candidate/Owner)

RESPONDENT: WORLD WRESTLING ENTERTAINMENT, INC.

(Committee Name, Company Name, or Individual Named in Notification Letter)

MAILING ADDRESS: 1241 East Main Street
(Please Print)

Stamford, CT 06902

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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

2012 JUN 12 PM 2:17
OFFICE OF GENERAL COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Entity/Treasurer
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MUR # 6586

NAME OF COUNSEL: MICHAEL J. O'NEIL

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ADDRESS: 1601 K STREET, N.W.

WASHINGTON, DC 20006

TELEPHONE- OFFICE (202) 661-6226

FAX (202) 778-9100

Web Address: www.klgates.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

James W. Langham
SVP and Assistant General Counsel

Date 6/12/12

Respondent/Agent Signature

Title (Treasurer/Candidate/Owner)

RESPONDENT:

WORLD WRESTLING ENTERTAINMENT, INC.

(Committee Name, Company Name, or Individual Named in Notification Letter)

MAILING ADDRESS: 1241 East Main Street
(Please Print)

Stamford, CT 06902

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